

Date: December 7, 2001

To: All Medicare+Choice Organizations

From: Gary Bailey /s/
Director

Re: **Medigap Rights Triggered by December Special Election Period--ACTION**

On June 14, 2001, CMS released a memorandum providing you with instructions on how to implement the decision to delay ACRP submissions until September (see <http://www.hcfa.gov/medicare/instr.rtf>). In part, this memorandum read:

“HCFA is establishing an SEP [Special Election Period] for all beneficiaries from December 1 through December 31, 2001. All M+COs [Medicare+Choice Organizations] must be open for enrollment during this time frame (with the exception of those closed for capacity reasons). The effective date for elections made during this SEP is January 1, 2002. Since the Annual Election Period lasts from November 1 – 30, this means that all Medicare beneficiaries will be able to enroll in or disenroll from M+C plans from November 1 – December 31, 2001.”

The SEP established in the June 14 memorandum allows Medicare+Choice enrollees to opt out of their Medicare+Choice plan and into Original Medicare. As such, this SEP confers the same guaranteed-issue rights to Medigap as are available when an enrollee’s Medicare+Choice plan terminates.

In order to notify members of their Medigap guaranteed issue rights, as required by section 1882(s)(3)(D) of the Social Security Act, **please insert the following paragraph into all letters for voluntary disenrollments made during the month of December:**

“Because your disenrollment is effective December 31, 2001, you may have a guaranteed right to buy a Medicare supplement (Medigap) insurance policy if you return to the Original Medicare Plan on January 1, 2002. Please call 1-800-MEDICARE (1-800-633-4227, TTY/TDD 1-877-486-2048) to find out more about your rights. You may also contact your State Health Insurance Assistance Program to get more information about the availability of Medigap insurance in your State. **Please save this letter as proof of your Medigap rights.**”

This paragraph must be included in letters for Acknowledgment of Receipt of Voluntary Disenrollment Requests from Members (Exhibit 11 of OPL 99.100) for disenrollments received through your organization during the month of December. It must also be included in letters for Confirmation of Voluntary Disenrollments Identified Through Reply Listing (Exhibit 12 of OPL 99.100) for any disenrollment transactions you receive from now through the February

transaction reply report for a January 1, 2002 effective date. You can either include the language in the text of the disenrollment letter, or as an insert included with the disenrollment letter.

You **must** use the above paragraph verbatim, which will result in your revised letters being automatically approved by the regional office. Thus, you need not go through pre-marketing review for these letters. Instead, you must send a copy of the final letters to the regional office for its files.

Also, you may have received disenrollment requests in early December for which you have already sent out acknowledgment letters. In these cases, upon request, letters should be sent to members informing them of their Medigap guaranteed issue rights if they are returning to Original Medicare.

You may also receive requests from members to cancel a disenrollment action taken in November for a January 1 effective date and instead take the disenrollment action in December for the same effective date. This will enable them to take advantage of the Medigap guaranteed issue rights that are triggered by a disenrollment made during the December SEP. In these situations, you should permit individuals to cancel the first disenrollment request and process the December request, so that these individuals will receive a disenrollment letter stating that they have Medigap guaranteed issue rights.